IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.9.2006

C O R A M

THE HONOURABLE MR.JUSTICE M.E.N.PATRUDU

W.P.No.12174 of 1995
and
W.P.M.P.No.28204 of 2005

R.Bhaskar ... Petitioner

Vs.

1. The Presiding Officer,
   Ist Additional Labour Court,
   Madras.

2. The Management,
   Madras Radiators and Pressings Ltd.,
   Madras-53. ... Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus calling for the concerned records and quash the Award dated 28.5.93 passed by the Learned Presiding Officer, Ist Additional Labour Court, Madras and further direct the respondents to reinstate the petitioner in service with all benefits and to award of this writ petition.

For petitioner : Mr.P.Saravanan
For respondents : No appearance.

O R D E R

The petitioner is one of the casual labourers under the second respondent. According to the petitioner, he has worked for 187 days in 1984, 245 days in 1985, 231 days in 1986 and 133 days in 1987. But he was retrenched from service on 19.9.87 along with many other casual workers. Therefore, all of them have approached the Additional Labour court and raised a dispute in I.D.No.345 of 1988.

2. Shri.P.Saravanan, learned counsel appearing for the petitioner has stated that counter statement has been filed by the respondent Management before the Labour Court wherein at page No.3 paragraph No.13, they have given an annexure showing the names of the Casual Employees, the Date of Entry and the days of Service in each year and the name of the petitioner was mentioned at Serial No.13 and his date of entry has shown 5.5.84 and the annexure

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further shows that the petitioner worked for 197 days in 1984 and 245 days in 1985 and 231 days in 1986 and 133 days in 1987.

3. Therefore, the contention of the counsel for the petitioner is that the petitioner having served for 245 days continuously with the respondent in the year 1985. He should be regularised under the provisions of the Industrial Disputes Act.

4. In fact the Labour Court has considered the cases of 8 casual labourers and observed that since they have put up for 240 days in a calendar year in 12 months i.e. 365 days. Therefore, they are directed to be reinstated.

5. The contention of the counsel for the petitioner is that the same principle should be applicable in the case of petitioner. The petitioner highlighted the observations of the Labour Court in paragraph No.7 of the award.

6. None appeared for the respondents.

7. Heard arguments of petitioner counsel.

8. Perused the award at paragraph No.7 it is mentioned as follows:

> "In the result an award is passed mentioning that, the dismissal of the employees, viz. S.Anbu, K.Malar, S.Kannan, A.Tamilselvan, S.Yeshu, R.Pandian, E.Yesunathan, and g.Seeyalan is not justifiable and hence the Respondent Management should reinstate them in service with continuity of service and 50% of backwages. And that the claim of the other employees viz. 1)Shankar, 2)M.Baskar, 3)S.C.Munusamy, 4)M.Valliraman 5)S.Raja 6) R.Bhaskar 7)S.Boopathy 8)R.Raghavaraj 9)P.Munusamy and 10)K.Many were dismissed, as they have not worked continuously for 240 days in the respondent Firm during the period of 12 months prior to their dismissal. Since the other employees mentioned in the charge sheet has not made any claim in this Court, no award has been passed in respect of them. No order as to costs."

9. Since the Labour Court has came to conclusion that those 8 persons who have put in 240 days of service are directed to be reinstated.

10. If so I do not understand the reason for not considering the case of the petitioner herein who has worked for 245 days in the year 1985. Hence the petitioner prayer is accepted and the award is modified.

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11. The writ petition is allowed. No costs. Consequently, connected W.P.M.P. is closed.

sgl

Sd/-
Asst. Registrar

//true copy//

Sub Asst.Registrar

To

1. The Presiding Officer,
   Ist Additional Labour Court,
   Madras.

2. The Management,
   Madras Radiators and Pressings Ltd.,
   Madras-53.

+ one cc to Mr.P.Saravanan, Advocate Sr.No.41316.

NA (CO)
RSM/21.9.2006

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